

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
HARLAN P. JAMES,  
Defendant.

CASE NO. CR05-410 RSL

## DETENTION ORDER

**Offense charged:**

Assault with a Deadly Weapon, in violation of Title 18, U.S.C., Sections 113(a)(6) and 1153.

Date of Detention Hearing: November 21, 2005.

The Court, having conducted a contested detention hearing pursuant to Title 18 U.S.C. § 3142(f), and based upon the factual findings and statement of reasons for detention hereafter set forth, finds that no condition or combination of conditions which the defendant can meet will reasonably assure the appearance of the defendant as required and the safety of any other person and the community. The Government was represented by Carl Blackstone. The defendant was represented by Mike Filopovic.

The Government moved for detention asserting that despite his age the defendant has five prior felonies, including a burglary conviction and conviction for drug possession. There has been an escalating pattern of violence this year alone. The current instant offence caused physical damage to the victim. The Government maintains the defendant is a flight risk and a danger to the community given the tribe will not allow him to return to tribal land due of the instant offense which allegedly occurred there.

Defense counsel argued for release, stating the government has not established that

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1 defendant has been ordered not to come back to the reservation, nor does the Lummi Police  
2 have the authority to ban from tribal land. To date there has been no formal action taken by  
3 the tribe to ban the defendant from the reservation. The defendant is a life-long resident of  
4 Washington and member of the Lummi Tribe. Defense argues that he can live with his father  
5 in a stable living situation. Defense counsel suggests that if the defendant is closely  
6 monitored and given regular alcohol and drug tests, this would assure his appearance.  
7 Requests defendant be returned to his family under the supervision of Pretrial services, or  
8 to a halfway house in the event he is not allowed to return to his tribal land.

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10 **FINDINGS OF FACT AND STATEMENT OF REASONS FOR DETENTION**

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- 12 (1) Defendant has been convicted of probation violations twice while  
13 released on supervision.
- 14 (2) There also appears to be escalating criminal behavior over the  
15 past few months with two pending assault charges over and above  
16 the current charge. This behavior outweighs any reasonable  
17 condition the court can place upon defendant.

18

19 Thus, there is no condition or combination of conditions that would reasonably assure  
20 future court appearances.

21

22 **It is therefore ORDERED:**

- 23 (1) Defendant shall be detained pending trial and committed to the custody of  
24 the Attorney General for confinement in a correctional facility separate, to  
25 the extent practicable, from persons awaiting or serving sentences, or being  
26 held in custody pending appeal;

- (2) Defendant shall be afforded reasonable opportunity for private consultation with counsel;
  - (3) On order of a court of the United States or on request of an attorney for the Government, the person in charge of the correctional facility in which Defendant is confined shall deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding; and
  - (4) The clerk shall direct copies of this order to counsel for the United States, to counsel for the defendant, to the United States Marshal, and to the United States Pretrial Services Officer.

DATED this 29<sup>th</sup> day of November, 2005.

  
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MONICA J. BENTON  
United States Magistrate Judge